

**Terminal Disclaimer To Obviate A Double
Patenting Rejection Over A Prior Patent**

Docket No.
115-3189-U

In Re Application Of: Dennis Foster et al

Serial No.
09/334,974

Filing Date
June 17, 1999

Examiner
G. Cantelmo

Group Art Unit
1753

Invention: **PROCESS FOR APPLYING PROTECTIVE AND
DECORATIVE COATING ON AN ARTICLE**

Owner of Record: Masco Corporation of Indiana

TO THE ASSISTANT COMMISSIONER FOR PATENTS:

The above-identified owner of record of a 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by any terminal disclaimer, of prior Patent No. 5,879,532. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors and/or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. 1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney of record.

Myron B. Kapustij
Signature

Dated: 3-24-00

Myron B. Kapustij
Typed or Printed Name

- ☒ Terminal disclaimer found under 37 C.F.R. 1.20(d) included.
☐ PTO suggested wording for terminal disclaimer was unchanged.
☐ Certification under 37 C.F.R. 3.73(b) is required if terminal disclaimer is signed by the assignee.

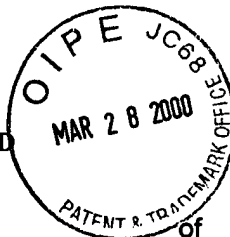
03/30/2000 TTRAH1 00000023 131981 09334974
02 FC148 110.00 CH

**TERMINAL DISCLAIMER TO OBVIATE A PROVISIONAL DOUBLE
PATENTING REJECTION OVER A PENDING SECOND APPLICATION**

Docket No.

115-3189-U

In re Application of: **Dennis Foster et al**
Application No. **09/334,974**
Filed: **June 17, 1999**
For: **PROCESS FOR APPLYING PROTECTIVE AND
DECORATIVE COATING ON AN ARTICLE**



The owner, **Masco Corporation of Indiana** of **100.00** percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173 as shortened by any terminal disclaimer filed prior to the grant of any patent granted on pending second Application Number **09/239,581**, filed on **January 29, 1999**. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the second application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of any patent granted on the second application, as shortened by any terminal disclaimer filed prior to the patent grant, in the event that any such granted patent: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims cancelled by a reexamination certificate, is reissued, or in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

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2. ☒ The undersigned is an attorney of record. 03/30/2000 TTRAN1 00000023 131981 09334974

3. Owner/applicant is ☐ Small entity ☒ Large entity 03 FC:148 110.00 CH

The terminal disclaimer fee under 37 CFR 1.20(d) is **\$110.00** and is to be paid as follows:

- ☐ A check in the amount of the fee is enclosed.
☒ The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number **13-1981**. A duplicate copy of this sheet is enclosed.

PTO suggested wording for terminal disclaimer was

- ☒ unchanged. ☐ changed (if changed, an explanation should be supplied.)

Myron B. Kapustij
Signature

Dated: **3-24-00**

Name and Address of Person Signing

Myron B. Kapustij
Registration No. 26,748
Masco Corporation
21001 Van Born Road
Taylor, Michigan 48180
(313) 792-6298

I certify that this document and fee is being deposited on **3-24-00** with the U.S. Postal Service as first class mail under 37 C.F.R. 1.8 and is addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

Myron B. Kapustij
Signature of Person Mailing Correspondence

Typed or Printed Name of Person Mailing Correspondence